



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-83,616-02

EX PARTE ASTERIO MALDONADO-NUNEZ, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 1354420-A IN THE 232nd DISTRICT COURT
FROM HARRIS COUNTY**

Per curiam. **KEEL, J., not participating.**

OPINION

Pursuant to the provisions of Article 11.07 of the Texas Code of Criminal Procedure, the clerk of the trial court transmitted to this Court this application for a writ of habeas corpus. *Ex parte Young*, 418 S.W.2d 824, 826 (Tex. Crim. App. 1967). Applicant was convicted of indecency with a child and sentenced to ten years' imprisonment. The Fourteenth Court of Appeals affirmed his conviction. *Maldonado v. State*, No. 14-13-00404-CR (Tex. App.—Houston [14th Dist.] Dec. 5, 2013) (not designated for publication).

Applicant alleges numerous instances of ineffective assistance of counsel in this case including failing to investigate, failing to call available witnesses who could have provided

exculpatory testimony, and failing to impeach the complainant and other State witnesses with several prior inconsistent and inaccurate statements.

After holding an extensive live evidentiary hearing, and based upon the record, the trial court has determined that trial counsel's performance was deficient and that such deficient performance prejudiced Applicant. The trial court recommends granting relief and that recommendation is supported by the record. The judgment in Cause No. 1354420-A in the 232nd District Court of Harris County is set aside, and Applicant is remanded to the custody of the Sheriff of Harris County to answer the charges as set out in the indictment. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: March 29, 2017
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